

DATE: May 17, 2001

TO: SJVUAPCD Governing Board

FROM: David L. Crow, Executive Director/APCO
Project Coordinator: Joan Merchen

RE: **RECEIVE AND FILE PROPOSED AMENDMENTS TO
RULE 4103 (OPEN BURNING), PROPOSED RULE
4106 (PRESCRIBED BURNING AND HAZARD
REDUCTION BURNING), AND PROPOSED
AMENDMENTS TO RULE 4101 (VISIBLE EMISSIONS)**

RECOMMENDATION:

Receive and file proposed amendments to Rule 4103 (Open Burning) and proposed new Rule 4106 (Prescribed Burning and Hazard Reduction Burning), and proposed amendment of Rule 4101 (Visible Emissions) and set June 21, 2001 for the Public Hearing to consider the proposed actions.

BACKGROUND:

RACM/BACM Requirements

As a serious PM10 nonattainment area under the Federal Clean air Act Amendments of 1990, the District is required to apply Best Available Control Measures (BACM) to sources of PM10 and PM 10 precursors. On May 15, 1997, the District's Governing Board adopted the 1997 PM10 Attainment Demonstration Plan (PM10 ADP). The PM10 ADP sets forth the direction and framework, including the emission control strategies, that the District needs to implement in order to achieve attainment of the PM10 NAAQS in the SJVAB. Pursuant to FCAA requirements for serious PM-10 nonattainment areas, the PM10 ADP contains a commitment to revise the existing Reasonably Available Control Measures (RACM) in Rule 4103 to ensure that they meet Best Available Control Measures (BACM) requirements. The United States Environmental Protection Agency

(EPA) identified four areas in Rule 4103 as not meeting RACM and BACM requirements. These include eight exemptions contained in the rule, and for prescribed burning, the lack of burner training requirements, the need to require best emission reduction techniques appropriate for a given type of burn, and the need to require second level smoke dispersion evaluation.

The eight exemptions are addressed in Proposed Rule 4103 and the remaining three items in Proposed Rule 4106. The EPA has indicated that these four areas have been adequately addressed in the proposed rules.

Title 17

The California Air Resources Board (ARB), on March 23, 2000, amended Title 17, Agricultural Burning Guidelines (which became Smoke Management Guidelines for Agricultural and Prescribed Burning). The amended Title 17 establishes new requirements for agricultural burners, prescribed burners and air districts. The proposed amendment of Rule 4103 and the adoption of Rule 4106 would also include changes necessary to implement new Title 17 requirements.

California Health and Safety Code Section 41804

Section 41804 of the California Health and Safety Code requires the District and its Governing Board to take certain actions related to hazard reduction burning if it is to occur within the District. These actions will be addressed as part of the rule adoption process.

DISCUSSION:

The proposed amendments to Rule 4103 and adoption of Rule 4106 would implement BACM, and at the same time address the RACM deficiencies that were identified by the EPA to make Rule 4103 fully approvable for the State Implementation Plan. The actions would also incorporate Title 17 provisions into District regulations, enabling the District to establish a daily burn allocation system, and fulfill the requirements of Section 41804 of the California Health and Safety Code related to Board actions on hazard reduction burning. Rule 4101 (Visible Emissions) currently exempts agricultural burning as defined in Rule 4103 (Open Burning) from the rule. Because proposed Rule 4103 would no longer apply to prescribed and hazard reduction burning, the amendment of Rule 4101 is necessary to allow the existing exemption for prescribed and hazard reduction burning to continue.

The proposed Rules 4103 and 4106 will have positive impacts on air quality in the San Joaquin Valley in that they will reduce emissions from smoke on bad air days, will minimize smoke impacts on sensitive receptors, and will reduce nuisance complaints

caused by the large scale burning activities that tend to occur following extended no-burn days. It does not appear, however, that the total annual emissions generated by open burning, prescribed burning and hazard reduction burning will be reduced by the regulations. Instead, the allocation system, together with the other rule requirements, will allow smoke to be better managed to provide the described benefits.

Summary of Proposed Rules

Rule 4103:

- Rule 4103 remains titled Open Burning and regulates agricultural and all other outdoor burning except for burning subject to Rule 4106. All references to prescribed and hazard reduction burning have been removed from the rule.
- Four of the eight exemptions identified by EPA as not meeting BACM requirements have been deleted. Appropriate justification has been provided to EPA for leaving the remaining four exemptions in the rule. Three additional exemptions that allow burning on no-burn days, the burning of raisin paper grape trays, paper fertilizer bags that state on the bags that they contain toxic substances, and contraband materials, have been added to the rule.
- Burn plans for the burning of contraband materials and the instruction of employees in fire fighting methods are now required. Other rule provisions reflect current open burning practices.

Rule 4106

- Rule 4106 is titled Prescribed Burning and Hazard Reduction Burning and regulates range improvement burning, forest management burning, wildland vegetation management burning, and hazard reduction burning.
- The rule requires permits for hazard reduction burning and contains the smoke management plan and other requirements for prescribed and hazard reduction burning established by the California Air Resources Board's Title 17.
- EPA's RACM/BACM concerns have been addressed through the smoke management plan and burner training requirements.

Rule 4101

- Rule 4101 is being amended to exempt prescribed and hazard reduction burning as defined in Rule 4106.

Section 41802 Findings

California Health and Safety Code Section 41802 allows the District's Governing Board

to authorize hazard reduction burning subject to certain actions being taken. These actions and a brief discussion about each are described in the attached staff report.

Smoke Management Plan

Title 17 requires that the District develop a smoke management plan (SMP) to minimize the production of smoke from all open burning, including prescribed and hazard reduction burning. The SMP is a broad document that must contain a number of elements including the District's burn authorization system, meteorological and monitoring data criteria, regulations to minimize smoke from burning, a description of personnel needed to operate the program, procedures for conducting various burn activities, and several other factors. Many of the elements of the SMP are outside the purview of the rules. Thus, the proposed Rules 4103 and 4106 are one element of the smoke management program. The smoke management plan that will encompass all required elements is being developed by District staff and will be brought to your Governing Board at a later date.

Cost Effectiveness and Socioeconomic Impact Analyses

A stakeholder survey revealed no significant costs associated with rule implementation. District staff did not conduct a formal cost effectiveness analysis. At the same time, it was determined that there would also be no significant emission reductions associated with the rules. Thus there were no means to proceed with further cost effectiveness and socioeconomic impact analyses. Refer to Appendix A of the Staff Report for details regarding these assessments.

Rule Consistency Analysis

Pursuant to California Health and Safety Code section 40727.2, staff has prepared a rule consistency analysis that compares the elements of Rule 4103 and Rule 4106 with the corresponding elements of other District rules and federal regulations and guidelines that apply to the same type of equipment or source category. The results of the analysis are shown in Appendix B of the Staff Report.

Environmental Impacts

As required by the CEQA, the District prepared an Initial Study for the 2000 Triennial Plan. The Initial Study did not identify any significant adverse environmental impacts. The proposed Negative Declaration was made available for public review for a thirty-day period as required by the California Environmental Quality Act. No comments were received from the public. The proposed Negative Declaration and Initial Study are attached.

Rulemaking Process

As part of the District's rule development process, staff presented several public workshops to solicit and receive comments from interested parties and affected industries. Workshops were held in August 2000, November/December 2000, and February/March 2001. Information obtained throughout the workshop process was used to refine the draft rule and staff report.

The notice of the public workshops for Rules 4103 and 4106 were published in a general circulation newspaper in each of the eight San Joaquin Valley counties, and mailed to affected sources and interested parties. The workshop notice solicited written comments to be submitted by mail, and identified the names and telephone numbers of the District staff who could answer questions and respond to comments.

Fiscal Impact

District staff expect no fiscal impact to result from this action.

Attachments:

Proposed Amendments to Rule 4103 (18 pages)

Proposed Rule 4106 (10 pages)

Proposed Amendments to 4101 (2 pages)

Final Draft Staff Report for Rules 4103 and 4106, including CEQA Documentation (59 pages)

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BURNING) AND AMENDMENTS TO RULE 4101 (VISIBLE EMISSIONS)**

Attachment: Proposed Amendments to Rule 4103 (18 pages)

The above attachment has been included with the agenda packets distributed to members of the Governing Board. It has not been included with other agenda packets. A copy of this document is available for review and/or purchase from the San Joaquin Valley Unified Air Pollution Control District.

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Attachment: Proposed Rule 4106 (10 pages)

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